

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

ALVIS CLINT HIGGINS,)	
)	
Petitioner,)	
)	
v.)	Case No. CIV-06-803-L
)	
CHARLES PETERSON, Warden,)	
)	
Respondent.)	

ORDER

This matter is before the court for review of the Report and Recommendation entered by United States Magistrate Judge Gary M. Purcell on July 28, 2006. Petitioner, a state prisoner appearing through counsel, brings this action pursuant to 28 U.S.C. §2254 seeking a writ of habeas corpus. The Magistrate Judge recommended that the petition be transferred to the United States District Court for the Northern District of Oklahoma, the place of petitioner's conviction.

The court file reflects that petitioner has filed an Objection to Report and Recommendation, which the court has carefully considered. Noting that this habeas petition may be filed in either the Western or Northern District, petitioner points out that (1) petitioner's counsel is from Oklahoma City as will be the assistant attorney general who is assigned to the case, (2) petitioner's witnesses, in the event of an evidentiary hearing, reside in eastern and western Oklahoma as well as Texas, (3) many of the court records are still at the Oklahoma Court of

Appeals located in Oklahoma City, and (4) petitioner's place of incarceration in Cushing, Oklahoma, is closer to Oklahoma City than Tulsa.

While these factors are not insignificant, the court finds that they are insufficient to overturn the conclusion of the Magistrate Judge. The factors highlighted by petitioner do not convincingly weigh in favor of litigation in the Western District of Oklahoma. The Report and Recommendation makes clear that the Magistrate Judge considered the issues raised in the petition in recommending that the court follow its long-standing policy to transfer habeas petitions to the district court where the conviction was entered.

Having conducted a *de novo* review, the court finds that transfer is appropriate and the Report and Recommendation should be adopted in its entirety. Accordingly, this action is **TRANSFERRED** to the United States District Court for the Northern District of Oklahoma. The clerk is directed to effectuate this transfer. In light of this order of transfer, the court makes no ruling on petitioner's Motion for Evidentiary Hearing [**Doc. No. 6**], which was filed after the date of the Report and Recommendation.

It is so ordered this 16th day of August, 2006.


TIM LEONARD
United States District Judge